

U.S. Department of Homeland Security
500 12th St., NW
Washington, D.C. 20536



**U.S. Immigration
and Customs
Enforcement**

May 13, 2019

Jimmy Tobias
Filed via MuckRock.com
DEPT MR 47755
411A Highland Ave
Somerville, MA 02144-2516

RE: ICE FOIA Case Number 2019-ICAP-00283

Dear Mr. Tobias:

This letter is the final response to your Freedom of Information Act (FOIA) Appeal on remand to the U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) where you appealed the adverse determination of your request dated March 20, 2019. You have requested appealing withholdings

all emails, memos, letters and/or reports sent or received by the ICE Deputy Field Office Director in New York, Scott Mechkowski, that contains one or more of the following words or phrases: "Judson Memorial Church", "Judson", "New Sanctuary", "Ragbir", "Montrevil", and/or "Schaper". This request pertains to records produced between August 1, 2017 and the date this request is processed.

We have considered your request under the both the FOIA, 5 U.S.C. § 552, and the Privacy Act Privacy Act, 5 U.S.C. § 552a. After review of the documents, I have determined that portions of documents will be withheld pursuant Exemptions of the FOIA as described below.

FOIA Exemption 5 protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. After carefully reviewing the responsive documents, I have determined that portions of the responsive documents qualify for protection under the deliberative process privilege/ attorney work-product privilege/ attorney-client privilege/ or all three. The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel. The attorney work-product privilege protects documents and other memoranda prepared by an attorney in contemplation of litigation.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right privacy. The types of documents and/or information that we have withheld may consist of social security numbers, home addresses, dates of birth, or various other documents and/or information belonging to a third party that are considered personal. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

FOIA Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in the identities of individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.


Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. I determined that disclosure of law enforcement systems checks could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. In this instance, because the cost is below the \$14 minimum, there is no charge.¹

If you need to contact our office about this matter, please refer to FOIA case number **2019-ICAP-00283**. This office can be reached at (866) 633-1182.

Sincerely,



 Catrina M. Pavlik-Keenan
FOIA Officer

¹ 6 CFR § 5.11(d)(4).